KEEGAN, WERLIN & PABIAN, LLP

ATTORNEYS AT LAW
21 CUSTOM HOUSE STREET
BOSTON, MASSACHUSETTS 02110-3525

(617) 951-1400

TELECOPIERS:
(617) 951-1354
(617) 951-0586

DAVID S. ROSENZWEIG
E-mail: drosen@kwplaw.com

March 20, 2002

Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, Massachusetts 02110

Re: D.T.E. 01-94 — Cambridge Electric Light Company

Dear Secretary Cottrell:

Enclosed for filing on behalf of Cambridge Electric Light Company d/b/a NSTAR Electric (the "Company"), please find the Company's Initial Brief in the above-referenced proceeding. Also enclosed is a certificate of service.

Thank you for your attention to this matter.

Sincerely,

David S. Rosenzweig

Enclosures

cc: Jesse S. Reyes, Hearing Officer (2 copies)
Esat Serhat Guney, Analyst, Rates and Revenue Requirements Division
Joseph Tiernan, Analyst, Rates and Revenue Requirements Division
Miguel Maravi, Analyst, Rates and Revenue Requirements Division
Alexander Cochis, Esq. Assistant Attorney General
Carol R. Wasserman, Esq.
Stephen Klionsky, Esq.
John Cope-Flanagan, Esq.

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company	D.T.E. 01-94

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the Department of Telecommunications and Energy, and the parties in this proceeding, in accordance with the requirements of 220 C.M.R. 1.05.

David S. Rosenzweig, Esq.
Keegan, Werlin & Pabian, LLP
21 Custom House Street
Boston, MA 02110
(617) 951-1400

Dated: March 20, 2002

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company	)	D.T.E. 01-94

INITIAL BRIEF OF CAMBRIDGE ELECTRIC LIGHT COMPANY

Submitted by:

John Cope-Flanagan, Esq.
NSTAR Electric & Gas Corporation
800 Boylston Street
Boston, Massachusetts 02199-8003

David S. Rosenzweig, Esq.
John K. Habib, Esq.
Keegan, Werlin & Pabian, LLP
21 Custom House Street
Boston, Massachusetts 02110

Date: March 20, 2002

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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Cambridge Electric Light Company	)	D.T.E. 01-94

INITIAL BRIEF OF CAMBRIDGE ELECTRIC LIGHT COMPANY

I. INTRODUCTION

On November 2, 2001, Cambridge Electric Light Company, d/b/a NSTAR Electric ("Cambridge" or the "Company"), filed with the Department of Telecommunications and Energy (the "Department"), a Petition for Approval of a 2001 Amendatory Agreement (the "2001 Amendatory Agreement" or the "Agreement") between Vermont Yankee Nuclear Power Corporation ("Vermont Yankee") and Cambridge, docketed by the Department as D.T.E. 01-94 (the "Petition"). The Petition seeks Department approval, pursuant to G.L. c. 164, §§ 1A, 1G, 76, 94, and 94A, of amendments to the existing power contract obligations between Cambridge and Vermont Yankee associated with the sale by Vermont Yankee of its nuclear power station (the "Vermont Yankee Station" or the "Station") to Entergy Nuclear Vermont Yankee, LLC ("Entergy").[1]

Between January 4 and January 10, 2002, the Office of the Attorney General (the "Attorney General"), the Massachusetts Division of Energy Resources (the "DOER") and Western Massachusetts Electric Company ("WMECo") filed petitions to intervene in the

[1] The Federal Energy Regulatory Commission (the "FERC") approved the sale of the Station to Entergy on February 1, 2002 (see RR-AG-1, Attachment RR-AG-1).

above-referenced proceeding. On January 10, 2002, a public hearing was held followed by a procedural conference during which the Hearing Officer granted the petitions to intervene of the Attorney General and the DOER. The hearing officer granted the petition to intervene of WMECo by letter, dated January 10, 2002.[2] On January 11, 2002, the Hearing Officer issued a memorandum setting a procedural schedule for the docket. The Department held an evidentiary hearing in this proceeding on February 28, 2002. There have been 92 exhibits entered into the record in this case, including ten responses to record requests.[3]

In support of Cambridge's Petition, the Company presented the testimony of: (1) Robert H. Martin, Director, Electric Energy Supply, Asset Divestiture and Outsourcing for NSTAR Electric & Gas Corporation; and (2) Bryant K. Robinson, Manager of Revenue Requirements for NSTAR Electric & Gas Corporation. Mr. Martin provided a description of the Company's decision to enter into the 2001 Amendatory Agreement with Vermont Yankee, together with an explanation of the primary terms of the agreements associated with Vermont Yankee's sale of the Station to Entergy. Mr. Robinson provided a description and analysis of the savings for Cambridge's customers

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2 WMECo filed a similar Petition with the Department to approve its 2001 Amendatory Agreement with Vermont Yankee, docketed as D.T.E. 01-99.

3 In addition, on March 8, 2002, the Company filed a Motion to Reopen the Record to admit a Memorandum of Understanding ("MOU") filed with the Vermont Public Service Board (the "VPSB"), discussed infra. On March 11, 2002, the Attorney General issued a supplemental record request (RR-AG-SUP-1) seeking an executed copy of the Memorandum of Understanding and all non-confidential pre-filed testimony filed with the VPSB regarding the proposed sale of the Station to Entergy. The Company responded to the Attorney General's supplemental record request on March 14, 2002. On March 15, 2002, the Attorney General filed a Motion to Reopen the Record to admit into evidence the Company's response to RR-AG-SUP-1.

and the proposed ratemaking treatment associated with the Company's decision to enter into the 2001 Amendatory Agreement.

For the reasons set forth below, Cambridge has demonstrated that its Petition meets in full the standards established in the Electric Restructuring Act, Chapter 164 of the Acts of 1997 (the "Act"), and is consistent with the restructuring plan of Cambridge, Commonwealth Electric Company, and Canal Electric Company (the "Restructuring Plan"), as approved by the Department in Cambridge Electric Light Company, et al., D.P.U./D.T.E. 97-111 (1998), and Department precedent. Accordingly, Cambridge respectfully requests that the Department approve the Company's Petition.

II. BACKGROUND OF THE TRANSACTION

Cambridge is a sponsoring shareholder of Vermont Yankee. As such, it has a 2.5 percent entitlement in the net capacity, output, and ancillary products of the Vermont Yankee Station, which is a nuclear station having a net capability of approximately 510 megawatts ("MW") located in Vernon, Vermont (Exh. CEL-RHM-1, at 4). Pursuant to the terms of a power contract, as amended, and an additional power contract with Vermont Yankee (collectively, the "Power Contract"), Cambridge is obligated to purchase 2.5 percent of the net capacity, output, and ancillary products of the Station for a term extending through March 21, 2012 (id. at 4, 6).

The existing Power Contract between Cambridge and Vermont Yankee consists of: (1) a power contract dated February 1, 1968, as amended by eight amendments dated June 1, 1972, April 15, 1983, April 24, 1985, June 1, 1985, May 6, 1988 (two amendments), June 15, 1989, and December 1, 1989 and (2) an additional contract dated February 1, 1984 (Exh. CEL-RHM-1, at 5; see also Exh. CEL-RHM-4; Exh. CEL-RHM-

5). The pricing under the Power Contract is based on Vermont Yankee's cost of service, including: (1) total fuel costs; (2) total decommissioning costs; (3) total operating costs; and (4) investment costs (Exh. CEL-RHM-1, at 6).

After a long-term effort by Vermont Yankee and the Station's sponsors to sell the Station, a competitive auction has resulted in the pending sale of the Station to Entergy for $180 million, subject to adjustments at closing (Exh. CEL-RHM-1, at 9). Under the sales transaction, Vermont Yankee proposes to sell to Entergy substantially all of the Station's assets (id. at 9). The terms and conditions of this transaction between Vermont Yankee and Entergy are set forth in a Purchase and Sale Agreement dated August 15, 2001 (the "PSA") (Exh. CEL-RHM-3). Included in the PSA is a 2001 Amendatory Agreement between Cambridge and Vermont Yankee under which the terms of the Power Contract will be restructured (Exh. CEL-RHM-2; see also Exh. CEL-RHM-1, at 3). As a result of the sales transaction and the 2001 Amendatory Agreement, Cambridge's transition charge would be reduced, resulting in savings for Cambridge's customers of approximately $7.1 million on a net-present-value basis,[4] as well as the elimination of certain risks and liabilities associated with operation of the Station. As described below, Cambridge entered into the 2001 Amendatory Agreement with Vermont Yankee because it is consistent with the Company's obligation, pursuant to its Restructuring Plan and the Act, to mitigate its transition costs to the maximum extent

[4] The Company's estimated savings of $7.1 million were contingent on a closing of the sale between Vermont Yankee and Entergy by February 28, 2002 (Exh. CEL-BKR-1, at 3, 9). However, as noted at the evidentiary hearing, the regulatory proceedings in Vermont regarding the sale are still ongoing (Tr. 1, at 67-68). Accordingly, the savings realized from the transaction may be slightly different to account for a post-February 28, 2002 closing date.

possible.[5] Accordingly, the Company seeks Department approval of the 2001 Amendatory Agreement and the inclusion of any above-market costs of the 2001 Amendatory Agreement in the Company's transition charge. A description of the primary agreements involved in the transaction is discussed below.

A. Description of Agreements

1. The PSA

The PSA is the key document under which Vermont Yankee will sell substantially all of its assets and liabilities to Entergy (Exh. CEL-RHM-3 (i.e., the PSA)). The principal obligations and rights under the PSA are:

- Vermont Yankee will sell substantially all of the Station's assets to Entergy, subject to adjustments, for a purchase price of $180 million (id. at § 3.2);
- Entergy will assume essentially all of the liabilities of Vermont Yankee associated with the Station's operation (including full responsibility for decommissioning of the Station), with certain limited exceptions stated in the PSA (id. at §§ 2.1 through 2.4);
- Vermont Yankee will retain certain assets, including the right to receive insurance-premium refunds (id. at § 2.2);
- at closing, Entergy and Vermont Yankee will enter into a purchase-power agreement by which Entergy will sell to Vermont Yankee 100 percent of the Station's output (see id. at Exhibit B (the "Entergy PPA")); and
- similarly, at closing, Vermont Yankee will amend the Power Contract with documents known as the "2001 Amendatory Agreements," by which Vermont Yankee's sponsors will purchase from Vermont Yankee specified shares of the electricity that Vermont Yankee purchases under the Entergy PPA, at prices outlined in the PPA (Exh. CEL-RHM-1, at 9).

The cash purchase price of $180 million includes prices of approximately $116

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[5] As described below, the costs incurred by Cambridge relating to its existing contractual obligations regarding Vermont Yankee are presently included in the Variable Component of the Company's transition charge in accordance with the Department-approved Restructuring Plan. See D.P.U./D.T.E. 97-111, at 56, 61.

million for Vermont Yankee's assets, other than nuclear fuel and inventories, $35 million for its nuclear fuel and $29 million for its inventories (Exh. CEL-RHM-1, at 9-10; Exh. CEL-RHM-3, at § 3.2). The purchase price is subject to adjustment pro rata at closing for taxes, rent, and other accrued pre-closing liabilities and to certain other adjustments (id. at 10; Exh. CEL-RHM-3, at § 3.3).

2. The 2001 Amendatory Agreement

Cambridge entered into the 2001 Amendatory Agreement as part of the overall divestiture transaction involving Vermont Yankee's sale of the Station to Entergy (Exh. CEL-RHM-1, at 10; see also Exh. CEL-RHM-2 (the 2001 Amendatory Agreement)). The purpose of the 2001 Amendatory Agreement is to amend the Power Contract to provide for Cambridge's purchase of its 2.5 percent share of the electricity that Vermont Yankee purchases under the Entergy PPA, described below, and Cambridge's payment to Vermont Yankee of its sponsorship share of Vermont Yankee's ongoing cost of service (Exh. CEL-RHM-1, at 10-11). The principal rights and obligations under the 2001 Amendatory Agreement are:

- Cambridge agrees to purchase its entitlement percentage under the Entergy PPA of the net capacity, energy, and ancillary products produced at the Station through March 21, 2012 (through the life of the current license) (Exh. CEL-RHM-2, at 5);
- the fixed price (in $/megawatthour) for the actual output produced is based on the prices and adjustments outlined in the Entergy PPA (id. at Exhibit B, Appendix D); and
- Cambridge agrees to pay its entitlement percentage of Vermont Yankee's power-purchase component of the 2001 Amendatory Agreement (id. at 5-6). In addition, Cambridge agrees to pay its entitlement percentage of specifically enumerated ongoing cost-of-service obligations of Vermont Yankee, include costs pertaining to the unamortized net plant investment for the Vermont Yankee Station, divestiture-related transaction and sales costs, post-closing obligations to Entergy under the PSA, and ongoing operating expenses of the shell Vermont Yankee entity, including principal and interest on any borrowed funds associated with operating

expenses (id.). Moreover, unlike under the Power Contract, under the 2001 Amendatory Agreement, Cambridge would not pay for Vermont Yankee's decommissioning costs, future capital costs or other costs of service not specifically enumerated (Exh. CEL-RHM-1, at 11-12).

3. The Entergy PPA

Pursuant to the Entergy PPA, Vermont Yankee is obligated to purchase 100 percent of the actual output produced by the Station through 2012, at the fixed price (in $/megawatthour) provided in the PPA (Exh. CEL-RHM-1, at 10; Exh. CEL-RHM-2 at Exhibit B, Article 5). The purchase price in the PPA for electricity from the Station consists of fixed monthly base prices throughout the term of the PPA (id.; Exh. CEL-RHM-2, Exhibit B, Appendix D). The PPA prices also include a "Low Market Adjuster" (the "LMA") that protects consumers in the event that power market prices drop significantly from those fixed in the PPA (id.; Exh. CEL-RHM-2 at Exhibit B, Article 5; Exh. DTE-CEL-1-6). Under the terms of the LMA, beginning in October 2005, if a prior year's average market price of power (defined by the Entergy PPA and calculated on a rolling twelve-month basis) is more than 5 percent below the Entergy PPA price for the current billing month, the price under the PPA would drop to 105 percent of the prior year's average market price (id.; Exh. CEL-RHM-2, Exhibit B at Article 5; Exh. DTE-CEL-1-6). As a result, with the LMA, customers are assured of receiving power under the PPA at prices that will, over time, closely track market conditions. As stated above, under the 2001 Amendatory Agreement, Cambridge will purchase its allocable share of the actual output produced by the Station through 2012 at the price terms set forth in the Entergy PPA.

B. Proposed Ratemaking Treatment

On February 27, 1998, the Department approved the Company's Restructuring Plan. Cambridge Electric Light Company, et al., D.P.U./D.T.E. 97-111 (1998). A key component of the Restructuring Plan is the Company's agreement to offer its generation assets and PPAs for sale, the proceeds of which will be used to reduce, or mitigate, the amount of the transition costs and, in turn, to reduce the Company's Transition Charge to be collected from customers. As approved by the Department, and as set forth in the Act, the Transition Charge recovers the above-market costs of generation-related investments and obligations that utilities have undertaken to provide service to their customers under traditional utility regulation. G.L. c. 164, § 1G(b)(1); D.P.U./D.T.E. 97-111, at 61 (1998); see also Exh. CEL-BKR-1, at 7; Exh. DTE-1-13; Exh. DTE-1-16.

The Transition Charge formula, as approved by the Department, includes provisions for reflecting the impact of Cambridge's divestiture of entitlements in long-term PPAs (including the Power Contract) in the Transition Charge (Exh. CEL-BKR-1, at 8). Accordingly, Cambridge proposes to reflect the costs and benefits of the 2001 Amendatory Agreement in the Company's Transition Charge. In particular, Cambridge proposes that: (1) the ongoing cost-of service for Vermont Yankee; and (2) any above-market (or below-market) costs associated with the PPA would be reflected in the Transition Charge (Exh. CEL-BKR-1, at 8).

The 2001 Amendatory Agreement will also reduce the total Variable Component of Cambridge's Transition Charge by eliminating future nuclear decommissioning costs and future capital additions associated with the continued operation of the Station and will achieve an overall reduction in the projected cost of the existing purchase-power obligation (Exh. CEL-BKR-1, at 8-9; Exh. DTE-CEL-2-11). The net effect of these

adjustments will be to reduce the total Variable Component, on a net-present-value basis, over the term of the 2001 Amendatory Agreement (id. at 8-9). The total savings to Cambridge's retail customers attributable to the 2001 Amendatory Agreement are $7.1 million, on a net-present-value basis (id. at 9; Exh. CEL-BKR-3; Exh. CEL-DTE-1-4 (revised)). Moreover, by terminating the Company's exposure to decommissioning costs and capital additions in the future, the Company's customers are shielded from these cost risks on a going-forward basis.

III. STANDARD OF REVIEW

G.L. c. 164, § 1 et seq. requires electric companies to seek to mitigate transition costs, including, as one mitigation method, the renegotiation of above-market power purchase contracts. G.L. c. 164, § 1G(d)(1) and (2). The Act further provides that, if a contract renegotiation, buy-out or buy-down is likely to achieve savings to customers and is otherwise in the public interest, the Department is authorized to approve the recovery of the costs associated with the contract restructuring. G.L. c. 164, § 1G(b)(1)(iv).

In reviewing power contract buy-outs, buy-downs and renegotiations, the Department has applied its standard of review of settlement agreements, i.e., a standard of reasonableness. Commonwealth Electric Company (Lowell Cogen Buy-Out), D.T.E 99-69, at 7 (1999); Boston Edison Company (L'Energia Buy-Out), D.T.E. 99-16, at 5-6 (1999); Western Massachusetts Electric Company (Springfield Resource Contract Restructuring), D.T.E. 99-56, at 7-8 (1999). In assessing the reasonableness of a power-purchase contract renegotiation, buy-out or buy-down, the Department reviews available information to ensure that the agreement is consistent with the public interest. Western Massachusetts Electric Company, D.T.E. 99-101, at 5-6 (2000) (MASSPOWER buy-

out); Commonwealth Electric Company, D.P.U. 91-200, at 5 (1993); Boston Edison Company, D.P.U. 92-183 (1992) (Department approval of a termination agreement of a purchase-power contract with Down East Peat, L.P.).

The Department's regulations do not prohibit a company from negotiating a release from the obligations it has incurred, but such releases are subject to the Department's review. Altresco-Lynn, Inc. and Altresco-Pittsfield, L.P., D.P.U. 91-42; and Cambridge Electric Light Company and Commonwealth Electric Company, D.P.U. 91-153, at 15 (1991). In Electric Industry Restructuring, D.P.U. 95-30, at 32-35 (1995), the Department recognized the amount by which the cost of existing contractual commitments for purchased power exceeds the competitive market price for generation as a cognizable component of stranded costs. That order further stated that a reasonable opportunity to recover stranded costs is in the public interest. Id. The Act also allows for recovery of costs for existing contractual obligations for purchased power through the transition charge. G.L. c. 164, § 1G(b)(1)(iv). In addition, in D.P.U./D.T.E. 97-111, at 90 (1998), the Department found that the Company's Restructuring Plan, which provided for the buy-out and buy-down of above-market purchase-power obligations, was consistent with or substantially complied with the Act. Id.

IV. THE 2001 AMENDATORY AGREEMENT IS CONSISTENT WITH THE ACT AND THE COMPANY'S APPROVED RESTRUCTURING PLAN

A. The Sale of the Station and the Related Purchase and Sale and 2001 Amendatory Agreement Are the Result of an Open and Competitive Auction, Consistent with the Act's Requirement To Maximize Mitigation of Transition Costs.

The sale of the Station and the resulting PSA, 2001 Amendatory Agreement and Entergy PPA were arrived at after an open and competitive auction, consistent with the

Act's requirement to maximize the mitigation of transition costs. Between 1998 and 2000, Vermont Yankee discussed selling the Station with several companies, and negotiated the terms of a possible purchase of the Station with AmerGen Energy Company, L.L.C. ("AmerGen"), but none of these efforts resulted in the successful divestiture of the Station (Exh. CEL-RHM-1, at 7; Exh. DTE-CEL-2-18). However, during the course of consideration by the Vermont Public Service Board ("VPSB") of AmerGen's proposal to purchase the Station, there were indications that the market for nuclear assets had become more vibrant since the time Vermont Yankee originally decided to seek divestiture of the Station (id. at 8). After the VPSB terminated its proceedings regarding the proposed sale of the Station to AmerGen, Vermont Yankee considered several options: (1) auctioning the Station to the highest bidder; (2) accepting a bid for the Station offered by Entergy during the VPSB's AmerGen proceeding; or (3) continuing the operation of the Station (id.). Vermont Yankee decided to retain an auction agent, J.P. Morgan ("JPM"), to conduct an open and competitive auction of the Station (id.). As a result of the auction process, Vermont Yankee accepted JPM's recommendation that it sell the Station to Entergy, pursuant to a bid offered by Entergy in the context of the auction (id.).

The Company presented the Department, through responses to information requests and testimony at the February 28 hearing, significant amounts of information regarding the auction process (see Exhibits AG-1-1 through 1-33, Exh. AG-1-18 (Exh. Attachments AG-1-18 (a), (c) and (e) **[CONFIDENTIAL]**, Exh. AG-26 (Exh. Attachments AG-1-26 (c), (h), (i), (j), (k), (aa), (bb), (ee) **[CONFIDENTIAL]**). This information demonstrates that the auction to sell the Station was open and competitive,

consistent with the Department's precedent of encouraging competitive auctions to maximize the value of generation assets, and thus, reduce transition charges for the Company's customers. See Cambridge Electric Light Company, Commonwealth Electric Company, Canal Electric Company, D.T.E. 98-78/83, at 10-11 (1998). Accordingly, by subjecting the Company's existing contractual obligations to a competitive market test, the 2001 Amendatory Agreement, which resulted from the competitive sale of the Station, provides Cambridge's customers with the maximum amount of savings, as well as other significant benefits. Therefore, the 2001 Amendatory Agreement maximizes mitigation of the Company's transition costs.[6]

B. The 2001 Amendatory Agreement Is Consistent With Cambridge's Obligation Under the Act To Maximize Mitigation of its Transition Costs.

The 2001 Amendatory Agreement is consistent with Cambridge's obligation under the Act to mitigate its transition costs to the maximum extent possible because the 2001 Amendatory Agreement minimizes the Company's overall transition costs that Cambridge would otherwise be required to collect from its customers by approximately

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[6] In addition to Cambridge's efforts to sell the Station, Cambridge has also been diligent over several years in attempting to mitigate transition costs associated with the Power Contract. Cambridge included the Power Contract in its 1998 auction of Cambridge's and Commonwealth Electric Company's PPA portfolio (Exh. DTE-CEL-2-12). That auction did not result in proposals regarding the Power Contract that were beneficial to customers (id.). After the Company's attempt to auction its PPAs, the Company periodically pursued other efforts and solicitations with a view toward selling its interests in its PPAs, including the Power Contract (id.). These various attempts did not come to fruition (id.). Subsequently, pursuant to steps taken by Vermont Yankee to sell its interests in the Station, the Company entered into a 2000 Amendatory Agreement in the context of Vermont Yankee's proposed sale of the Station to AmerGen. See Cambridge Electric Light Company, D.T.E. 00-09 (2000) (id.). The 2000 Amendatory Agreement to implement the terms of the Amergen sale, did not go forward because, as noted above, the VPSB terminated its proceedings with respect to the Amergen sale. Thereafter, Vermont Yankee put the Station up for a further auction, which has resulted in the pending sale of the Station to Entergy and the 2001 Amendatory Agreement at issue in this proceeding (id.).

$7.1 million on an net-present-value basis (Exh. CEL-RHM-1, at 9; Exh. CEL-BKR-3; Exh. CEL-DTE-1-4 (revised)). These savings were calculated by comparing: (1) the total transition charges that would be paid by the Company's retail customers prior to the 2001 Amendatory Agreement to (2) the transition charges that would be paid by the Company's retail customers after the impact of the 2001 Amendatory Agreement is included in the calculation of the post-divestiture Transition Charges (Exh. CEL-BKR-3, Exh. DTE-1-4 (revised)).

In addition, Cambridge has demonstrated that the 2001 Amendatory Agreement provides the most mitigation to its retail customers compared to the terms of other bid options received through the auction. Entergy and other bidders proposed several bid options (Exh. AG-1-3(a) **[CONFIDENTIAL]**; Exh. Attachment AG-1-4 **[CONFIDENTIAL]**) The record demonstrates that one of Entergy's bids produced high cash consideration for the Station, coupled with a low-price PPA,[7] the LMA and the elimination of certain risks and liabilities, making it the most attractive bid for the sponsors of Vermont Yankee (see Exh. Attachment AG 1-4, at 2 **[CONFIDENTIAL]**).

The LMA is a particularly effective mechanism to ensure that customers are insulated from the risk of a significant future drop in the market value of the power purchased under the 2001 Amendatory Agreement. Effective October 2005, the LMA will reduce the price of power that Cambridge is obligated to pay Entergy under the PPA,

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[7] Although Vermont Yankee and the Station's sponsors considered bids that included requirements to purchase different levels of the Station's output (100 percent versus 55 percent) (Tr. 1, at 101-103), when the bids were reviewed, Cambridge's evaluation was that the bid that was accepted (which included a 100 percent PPA) was the best and had the highest likelihood of closing and receiving favorable regulatory approvals (Exh. DTE-CEL-2-6), especially since the Vermont sponsors required a buyback PPA in return and closing of the transaction necessitated unanimous approval by all purchasers.

if the market price for power drops over the term of the PPA (Exh. CEL-RHM-2, Exhibit B at Article 5; Exh. DTE-CEL-1-6). Accordingly, the LMA eliminates the risk that customers will pay for power at prices significantly above market conditions over the term of the Entergy PPA.[8] Therefore, the LMA provides customers significant added value in the form of potential lower prices in the event that future market prices are lower than projected.

As noted during the proceeding, the market price forecast used by the Company to analyze bids in the Vermont Yankee auction was compiled by the Vermont Department of Public Service (the "VDPS") (Tr. 1, at 90). The VDPS forecast produced reliable results by which to compare bids (Tr. 1, at 123 **[CONFIDENTIAL]**). In addition, the Company used an additional market price forecast (the "Henwood Study") as a sensitivity analysis to provide support for the prices used in the VDPS forecast (Exh. Attachment AG-1-11(a) **[CONFIDENTIAL]**). The Company demonstrated during the proceeding that the market prices from the Henwood Study are consistent with those found in the VDPS forecast and that, when using the Henwood Study to analyze the proposed transaction, the Henwood Study produced primarily the same estimates of customer savings as the VDPS forecast (Tr. at 123 **[CONFIDENTIAL]**; see also Exhs. Attachments AG-1-11(b) through (l) **[CONFIDENTIAL]**).[9] Accordingly, there is ample

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8 In addition, in comparison to any bid option that did not contemplate a buyback PPA, the LMA also eliminates any risk that the market forecasts used by the Company to analyze the transaction are inaccurate relative to the market price of electricity. Inasmuch as the LMA will take effect in the future if actual market prices are lower than those presently analyzed by the Company, the Entergy PPA prices will be adjusted to a level reflective of such current market conditions.

9 As noted during the Department's evidentiary hearing, the Company's analysis comparing the proposed sale of the Station to continued operation of the Station demonstrated that customers would realize incremental savings regardless of whether the VPDS study or the Henwood Study were used to estimate future market prices (Tr. at 90-92).

evidence on the record in this proceeding to support the Company's estimates of customers savings associated with the 2001 Amendatory Agreement. Therefore, the 2001 Amendatory Agreement provides for maximum mitigation of the Company's transition costs and significant savings to the Company's customers.[10]

C. The 2001 Amendatory Agreement Will Provide Cambridge's Customers With Significant Additional Benefits.

In addition to the Transition Charge savings of approximately $7.1 million on a net-present-value basis resulting from the 2001 Amendatory Agreement, the Company's customers will realize significant additional benefits. The 2001 Amendatory Agreement will eliminate all future potential risk and liabilities associated with the continued operation of the Station, including liabilities for decommissioning payments and the future risks concerning changes in Vermont Yankee's decommissioning costs (Tr. 1, at 64-65). In addition, by amending the Power Contract through the 2001 Amendatory Agreement, Cambridge will eliminate future risks that it would otherwise be responsible for concerning: (1) capital costs; (2) operating and maintenance expenses; and (3) the necessity to pay for power when the Station is not producing electricity (Tr. 1, at 116-117 **[CONFIDENTIAL]**). Also, although the Power Contract requires the Company to purchase its allocable share of the Station's output regardless of whether the Station is producing electricity, under the 2001 Amendatory Agreement, Cambridge is obligated to

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[10] Cambridge is cognizant of its continuing obligation to mitigate transition costs and divest generation resources, including PPAs. The approval of the 2001 Amendatory Agreement will not end the Company's responsibility to continue its efforts to mitigate costs associated with Vermont Yankee. In fact, it is anticipated that, because of the improvements in the contractual terms represented by the 2001 Amendatory Agreement (both price and risk terms), it may be easier, in the future, to divest the Company's PPAs.

purchase only the actual power produced from the Station, providing further benefits to customers (Exh. RHM-2, at 4, 5).

Moreover, additional benefits may be provided to customers as a result of a Memorandum of Understanding Among Entergy Nuclear Vermont Yankee, Vermont Yankee Nuclear Power Corporation, Central Vermont Public Service Corporation, Green Mountain Power Corporation, and the Vermont Department of Public Service, provided to the Department on March 8, 2002 (see RR-AG-SUP-1).[11] The MOU supplements the terms of the transaction between Vermont Yankee and Entergy for the sale of the Station to provide for: (i) the right of Vermont Yankee to negotiate with Entergy on an exclusive basis for a period of 30 days for the purchase of additional power available from the Unit as a result of any uprate of the Unit or an extension of the operating license (MOU at ¶ 1); (ii) excess funds remaining in the decommission trust fund to be shared equally between Entergy and Vermont Yankee, if decommissioning is delayed beyond the currently expected completion date of March 31, 2022 (id. at ¶ 3); (iii) "excess revenues" to be shared between Entergy and Vermont Yankee if Entergy extends the operation of the Unit pursuant to an extension of its license from the Nuclear Regulatory Commission (id. at ¶ 4); and (iv) enhanced financial security to be provided by Entergy (id. at ¶ 13). Accordingly, the 2001 Amendatory Agreement, in conjunction with the MOU, provides important tangible benefits to Cambridge's retail customers by eliminating risks that are inherent in the current Vermont Yankee Power Contract, as well as reducing the Company's Transition Charge. The MOU contemplates that the benefits negotiated

[11] On March 6, 2002, the MOU was filed for approval with the Vermont Public Service Board.

under that agreement will flow through to each of Vermont Yankee's sponsors on a proportional basis (see id. at ¶ 3).

D. The Company's Ratemaking Treatment of the Costs Associated with the 2001 Amendatory Agreement Is Consistent with the Act and the Company's Approved Restructuring Plan.

The Company's proposed ratemaking treatment of the costs associated with the 2001 Amendatory Agreement is consistent with the Act and the Company's approved Restructuring Plan. The Act authorizes and directs the Department to allow any approved transition costs to be recovered from customers through a non-bypassable Transition Charge collected by the distribution company providing service to such customers. G.L. c. 164, § 1G(e). In addition, the Company's Restructuring Plan, as approved by the Department in D.P.U./D.T.E. 97-111, provides for the implementation of a Transition Charge for Cambridge to be applied on a uniform cent per kilowatthour ("kWh") basis (Exh. CEL-BKR-1, at 5-6). The Transition Charge recovers the above-market costs of generation-related investments and obligations that electric companies have undertaken to provide service to their customers under traditional utility regulation (id. at 5). The Restructuring Plan's estimated transition costs consist of four categories: (i) generation-related commitments, including above-market fuel transportation costs; (ii) generation-related regulatory assets; (iii) nuclear obligations, including decommissioning costs and nuclear costs independent of operation; and (iv) above-market payments to power suppliers for power-purchase contracts, including transmission wheeling and support charges (Exh. CEL-BKR-1, at 7; see also Exh. CEL-DTE-1-13, Exh. CEL-DTE-1-16).

The formula for the calculation of the Transition Charge segregates the specific costs associated with these four categories into Fixed and Variable Components, with the

Fixed Component being credited with the net proceeds realized upon the divestiture of Cambridge's generation assets, and the Variable Component being adjusted for the assumption of any other generation-related obligations as a result of divestiture (Exh. CEL-BKR-1, at 7; Exh. DTE-CEL-2-11). Transition costs also reflect the extent to which such costs (e.g., buyout payments) are not tax deductible in any given year (Exh. CEL-BKR-1, at 7). The Transition Charge formula, as approved in the Department's order, includes provisions for reflecting the impact of Cambridge's restructuring of its entitlements in long-term PPAs (including Cambridge's Vermont Yankee Power Contract) in the Transition Charge (id. at 8). Accordingly, Cambridge proposes to include in the costs to be recovered from customers through the Transition Charge the costs of the 2001 Amendatory Agreement for: (1) the ongoing cost of service for Vermont Yankee; and (2) any above-market (or below-market) costs associated with the power-purchase obligations.

Cambridge's Transition Charge recovers the above-market portion of its long-term PPAs in the Variable Component of the Transition Charge (id.). The excess over market attributable to Cambridge's PPAs fluctuates from year to year as the value of the Company's total PPA obligations and market value change over time (id.). The costs associated with the 2001 Amendatory Agreement will be reflected in the calculation of the Variable Component of Cambridge's Transition Charge for 2002 and beyond by reducing the Company's cost-of-service obligations relating to Vermont Yankee including decommissioning costs and sunk costs (id.; Exh. DTE-CEL-2-11). The net effect of these adjustments will be to reduce the total Variable Component, on a net-present-value basis, over the term of the 2001 Amendatory Agreement (id. at 8-9). As

shown in Exhibits CEL-BKR-3 and CEL-DTE-1-4 (revised), the total Transition Charge savings to Cambridge's retail customers on a net-present-value basis are estimated to be $7.1 million. Accordingly, because the Company's treatment of the costs and savings associated with the 2001 Amendatory Agreement is consistent with the Act and the Company's Restructuring Plan, the Department should approve the recovery of such costs and savings in the Company's Transition Charge.[12]

V. CERTAIN DOCUMENTS IN THIS PROCEEDING MUST BE PROTECTED FROM PUBLIC DISCLOSURE, WITHOUT SUNSET, BECAUSE OF THE HIGHLY SENSITIVE NATURE OF THE DOCUMENTS

On January 28, 2002, Cambridge requested confidential treatment of specific information relating to the Station's auction process and procedures, the bids received and related documentation, citing the proprietary, confidential and highly competitively sensitive nature of the information. See Cambridge Electric Light Company, D.T.E. 01-94 (Motion of Cambridge Electric Light Company for a Protective Order) (the "Motion"). Cambridge is seeking protection for those responses to information requests that relate directly to the auction of the Station, the bidders or material facts relating to their bids, including market price forecasts, i.e., Exh. AG-1-3 (all attachments), Exh. AG-1-4 (all attachments), Exh. AG-1-11 (all attachments), Exh. AG-1-12 (Attachment AG-1-12(a)), Exh. AG-1-18 (Attachments AG-1-18 (a)(1), (a)(3), (c) and (e)), Exh. AG-1-20 (Attachment AG-1-20), Exh. AG-1-25 (redacted information), Exh. AG-1-26 (Attachments AG-1-26 (c), (h), (i), (j), (k), (aa), (bb) and (ee)), Exh. AG-1-27 (all

[12] Because of the savings attributable to the 2001 Amendatory Agreement, the Company is also entitled to a mitigation incentive. See Cambridge Electric Light Company, et al., D.T.E. 97-111-A at 5 (1998).

attachments); and Exh. DTE-CEL-1-1 (Attachment DTE-CEL-1-1). At the evidentiary hearing in this proceeding, the Hearing Officer requested additional argument supporting Cambridge's Motion.

The Hearing Officer noted at the Company's evidentiary hearing that the Department's precedent in granting motions for confidential treatment of bidding information is to grant the protection until such time as a company has completed all of its efforts to divest its generation plants (Tr. 1, at 6). The Company supports this level of protection, for several reasons described below, but believes that additional protections are required in order to protect customers' interests. First, if the sale of the Station should not close as scheduled, any future auction of the Station would be jeopardized if bid information was disclosed from the auction described in this proceeding. See Motion at 4-5. In addition, release to the public of certain terms of the Station's sale may adversely affect the competitive nature of the auction of the Seabrook nuclear generation facility which is ongoing currently, and other generation facilities owned by Cambridge (i.e., Blackstone Station) (Tr. 1, at 9-10). If auction-related information is disclosed, the effectiveness and competitiveness of auctions for the sale of these assets, and others in New England not owned by the Company, will be substantially harmed because the transparency of bids will discourage potential bidders from actively participating in such auctions, and thus, reduce the competitiveness of these auctions and the opportunity for customers to receive the maximum value from the sale of these assets.

However, the sensitivity of the auction-related information in the aforementioned exhibits calls for a greater level of protection than that usually afforded by the Department, and thus, the exhibits cited in the Motion should be protected without sunset.

The Company procures standard offer service and default service power on the competitive market, and will continue to do so for default service well past February 2005. Customers are the primary beneficiaries when these services are able to be procured by distribution companies at low cost and on a competitive basis. Potential bidders for the Company's standard offer service and default service supply would have the same disincentive to bid for these contracts as bidders for generation facilities if the Department establishes a precedent of releasing auction-related information to the public (Tr. 1, at 10-11). Bidders would be more reluctant to bid actively and aggressively in auctions conducted by Cambridge and other Massachusetts utilities if a precedent were established imposing a limited window of confidentiality. Accordingly, disclosure of the auction-related information in this proceeding would adversely affect the Company's efforts to procure power for these services, to the detriment of customers in the future, if bidders believe that their bids will be released to the public.

Moreover, the same confidential information that is at issue in this proceeding has been submitted on a confidential basis in ongoing proceedings in Vermont (Motion at 4-5). Precedent in Vermont does not set forth a sunset date for the release of information for which confidential status has been granted. Indeed, the information in this proceeding for which the Company seeks protection is the proprietary property of a third party. Vermont Yankee has contractual obligations to limit the information's disclosure only to regulators and those parties that have signed confidentiality agreements, and Cambridge is not authorized to permit disclosure of the information beyond what is allowed under the Vermont Yankee restrictions. If the Department directs that information be publicly disclosed in Massachusetts that is being held in a

confidential manner in Vermont, the interests of other parties and other regulatory authorities in maintaining confidentiality will be thwarted. This would undermine those regulatory proceedings and would be contrary to the public interest because it would chill the ability of regulators to obtain this type of confidential and proprietary market information in the future. Therefore, both as a matter of consistency and comity, the Department should not limit the term of confidentiality of the subject evidence.

VI. CONCLUSION

Based on the evidence presented during this case, and for all of the reasons set forth above, Cambridge requests that the Department find: (i) that the 2001 Amendatory Agreement is in the public interest and will result in just and reasonable rates for Cambridge's retail customers; and (ii) that the 2001 Amendatory Agreement and any above-market value of the Agreement be included in and recovered as part of the Transition Charge in accordance with the Company's proposal. In addition, the Company requests that the exhibits cited in its Motion for a Protective Order be retained in a confidential manner, even after the Company has divested its generation assets, because of the negative effects of disclosure to customers and the public interest.

Respectfully submitted,

CAMBRIDGE ELECTRIC LIGHT COMPANY

By Its Attorneys,

John Cope-Flanagan (JCF)

John Cope-Flanagan, Esq.
NSTAR Electric & Gas Corporation
800 Boylston Street
Boston, Massachusetts 02199-8003
(617) 424-2103 (telephone)
(617) 424-2733 (facsimile)

-and-

David S. Rosenzweig (JCF)

David S. Rosenzweig, Esq.
John K. Habib, Esq.
Keegan, Werlin & Pabian, LLP
21 Custom House Street
Boston, Massachusetts 02110
(617) 951-1400 (telephone)
(617) 951-1354 (facsimile)

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